



# **STATE MINING AND GEOLOGY BOARD**

## **Policy and Legislation Committee**

*Brian Baca, Chair; Jelisaveta Gavric, John Lane*

## **EXECUTIVE OFFICER'S REPORT**

**For Meeting Date: September 13, 2012**

**Agenda Item No. 2: Consideration of Proposed Regulatory Language Regarding the Administrative Appeal Process for Removal of Surface Mining Operations from the AB 3098 List.**

**INTRODUCTION:** The Department of Conservation, Office of Mine Reclamation (OMR) periodically publishes a list of mines regulated under the Surface Mining and Reclamation Act (SMARA) that meet provisions set forth under California's Public Resources Code (PRC), Section 2717(b). This list is generally referred to as the AB 3098 List, in reference to the 1992 legislation that established it. Sections 10295.5 and 20676 of the Public Contract Code preclude mining operations that are not on the AB 3098 List from selling sand, gravel, aggregates, or other mined materials, to state or local agencies. The need for a due process for the removal and reinstatement of a surface mining operation from the AB 3098 List has been recognized by the State Mining and Geology Board (SMGB). At its November 10, 2010, meeting, the Policy and Legislation Committee (Committee) considered preliminary regulatory concepts and directed its Executive Officer and legal counsel to provide a proposed regulation for the Committee's consideration for its December 9, 2010, meeting. Further discussions were held at the Committee's December 9, 2010, and January 13, February 10, March 10, July 26, and December 8, 2011, scheduled meetings.

The Committee, at its July 26, 2011 meeting, moved for the Executive Officer to hold several workshops throughout the state to receive comment on the preliminary proposed language. Due to other commitments and scheduling conflicts, no such workshops to date have been scheduled. At its March 8, 2012, meeting, the Committee concurred with the recommendation of the Executive Officer to defer further consideration of proposed regulations pending resolution of a legislative consideration. In addition, the Department of Conservation (DOC) was requested to provide a status report to the Committee as to the progress being made.

Currently, efforts to resolve the issue pertaining to "due process" via legislative action have not been accomplished. A status report will be provided by the DOC for the Committee's information. In addition, revised proposed regulatory language may be considered.

Respectfully submitted:

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Stephen M. Testa  
Executive Officer



*Executive Officer's Report*